

## **REMARKS**

Claims 1-20 are pending. All claims 1-20 are believed to be allowable over the references cited by the Examiner as discussed below. Accordingly, a Notice of Allowance for the present application is respectfully requested.

### **Rejection of Claim 6 Under 35 U.S.C. §112, second paragraph**

Claim 6 stands rejected under 35 U.S.C. §112, second paragraph. However, claim 6 is amended and is believed to overcome the rejection. Withdrawal of this rejection is respectfully requested.

### **Rejection of Claims Under 35 U.S.C. §102(b)**

Claims 1, 2, 4, 5-10, and 12-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Pallai.

Independent claim 1 generally recites a headset having an audio receiver, a headset body, a microphone, and a flexible voice tube that defines a lumen. The flexible voice tube is bendable into a curvilinear operative shape and position while *preventing kinking and retains the curvilinear operative shape and position* throughout its operative use until further adjustment. The lumen generally extends between an open end of the flexible voice tube to the microphone.

Independent claim 8 similarly recites a voice tube having a *kink-resistant* flexible tubular member, configured to be bendable into a curvilinear operative shape that is generally retained throughout its operative use until further adjustment is made. Independent claim 15 also generally recites a headset having an acoustic transmission means for acoustic transmission via a lumen, the acoustic transmission means being *kink resistant*, adjustable into a curvilinear operative shape, and generally retaining the curvilinear operative shape until further adjustment is made.

In contrast, while Pallai discloses a metal coil spring 101 to form a hollow voice tube (FIGS. 7-10; [0032]). However, a metal coil spring 101 is not inherently kink resistant.

The Examiner cites the Abstract and paragraph [0031] as support for Pallai disclosing kink resistance. However, in the Abstract, Pallai states that the tubular element is “flexible so that it can be bent into the desired position and comprising means (71; 102) able to maintain it in the position into which it has been bent.” (Abstract). Simply that the tubular element is flexible so it can be bent and able to maintain the bent position does not equate to Pallai disclosing or even suggesting kink resistance.

In paragraph [0032], Pallai states “In this manner the voice tube 24 can be bent by the user into any position suitable to bring the end 23 of the voice tube 24 near to the user's mouth and the voice tube 24 maintains said desired position until a subsequent bending.” Again, simply that the voice tube can be bent into any “suitable” position and that the voice tube maintains the desired position until a subsequent bending does not equate to Pallai disclosing or even suggesting kink resistance. Pallai specifically specifies that the voice tube may be bent into any “suitable” position.

A tubular member that is bendable and that maintains its bent position is not necessarily kink resistant. In particular, a voice tube position that would cause a kink in the voice tube, for example, would thus not be a “suitable” position. In other words, Pallai does not disclose or suggest such kink resistance as generally recited in each of the independent claims 1, 8, and 20.

As is known, kink resistance is such that the lumen generally retains its cross-sectional shape and size even when bent to a desired shape. (See also Specification, last sentence of paragraph [0023]). Providing a kink resistant voice tube allows the voice tube to be sufficiently manipulated, without kinking, to position the distal end of the voice tube adjacent to the wearer's mouth for wearers having varying ear-to-mouth distances. In actual use, the voice tube may be bent further for a wearer with a shorter ear-to-mouth distance than for a wearer with a longer ear-to-mouth distance. The kink resistant voice tube allows the voice tube to be bent further without resulting in a kink. Thus a kink resistant voice tube allows the wearer with a shorter ear-to-mouth distance to bend the voice tube as necessary without kinking the voice tube. Having a kink in the voice tube would obviously degrade the acoustic transmission between the open end of the voice tube and the microphone via the voice tube.

Thus Pallai, without more, does not disclose or suggest kink resistance in the voice tube. Accordingly, Pallai fails to teach or suggest that the flexible voice tube be configured to resist kinks as generally recited in each of independent claims 1, 8, and 15.

Withdrawal of the rejection of independent claims 1, 8, and 15 as well as claims 2, 4, 5-7, 9, 10, 12-14, and 16-20 dependent variously therefrom, under 35 U.S.C. §102(b) is respectfully requested.

### **Rejection Under 35 U.S.C. §103**

Claims 3 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Pallai in view of Sawada.

However, the addition of the secondary references Sawada does not make up for the deficiencies of Pallai as discussed above. Thus, claims 3 and 11 are also believed to be allowable for at least similar reasons as those discussed above. Withdrawal of the rejection of claims 3 and 11 under 35 U.S.C. §103(a) is respectfully requested.

### **CONCLUSION**

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

In the unlikely event that the transmittal letter accompanying this document is separated from this document and the Patent Office determines that an Extension of Time under 37 CFR 1.136 and/or any other relief is required, Applicant hereby petitions for any required relief including Extensions of Time and/or any other relief and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 50-2315 (Order No. 01-7119).

Respectfully submitted,



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Jung-hua Kuo, Reg. No. 41,918 for  
Peter Hsieh, Reg. No. 44,780  
Plantronics, Inc.  
345 Encinal Street  
P.O. Box 635  
Santa Cruz, CA 95060-0635  
Telephone: (831) 458-7758  
Facsimile: (831) 426-2965